

1 Jeffrey L. Berhold, Ga. Bar No. 054682

[jeff@berhold.com](mailto:jeff@berhold.com)

2 JEFFREY L. BERHOLD, P.C.

1230 Peachtree St., Suite 1050

3 Atlanta, GA 30309

4 Telephone: 404.872.3800

5 Attorney for Non-Party

6 ALLIANCE HEALTHCARE PARTNERS LLC

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8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 SURGICAL INSTRUMENT SERVICE  
12 COMPANY, INC.,

Case No. 3:21-CV-03496-AMO  
Hon. Araceli Martínez-Olguín  
Courtroom 10

13 Plaintiff/  
14 Counterclaim-Defendant

15 vs.

16 INTUITIVE SURGICAL, INC.,

17 Defendant/  
18 Counterclaim-Plaintiff.

**DECLARATION OF JEFF  
BERHOLD IN SUPPORT OF  
JOINT ADMINISTRATIVE  
MOTION TO CONSIDER  
WHETHER ANOTHER PARTY'S  
MATERIAL SHOULD BE  
SEALED PURSUANT TO CIVIL  
LOCAL RULE 79-5(f) (ECF No.  
393)**

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1 I, Jeffrey L. Berhold, declare as follows:

2 1. I am over the age of eighteen years old and am counsel for non-party  
 3 Alliance Healthcare Partners LLC (“Alliance”). Unless otherwise indicated, I state  
 4 the following of my own personal knowledge and, if called upon to do so, I could and  
 5 would testify competently to the following.

6 2. Pursuant to Civil Local Rules 7-11 and 79-5(f), Alliance submits this  
 7 declaration in support of the JOINT ADMINISTRATIVE MOTION TO CONSIDER  
 8 WHETHER ANOTHER PARTY’S MATERIAL SHOULD BE SEALED  
 9 PURSUANT TO CIVIL LOCAL RULE 79-5(f) (ECF No. 393) relating to proposed  
 10 trial exhibits.

11 3. Alliance prepared a 510(k) application with the FDA (K210478) on  
 12 behalf of non-party Restore Robotics Repairs LLC (“Restore”).<sup>1</sup> The 510(k)  
 13 application concerns the development, testing, and regulation of proposed methods  
 14 for repairing EndoWrists. After clearance, Alliance conveyed the 510(k) clearance to  
 15 Restore through the sale of the 510(k) applicant Iconocare Health Solutions. Neither  
 16 Alliance nor Restore has any interest in this case.

17 4. I represented Alliance and Restore in *Restore Robotics v. Intuitive*  
 18 *Surgical* and represent Alliance and Restore regarding the confidentiality of their  
 19 documents and information in this case. I have conferred with the chief executive  
 20 officers of Alliance and Restore regarding TX 1741. Neither Alliance nor Restore has  
 21 disclosed the contents of the TX 1741 to any third party because it would allow  
 22 competitors to make use of Alliance and Restore’s extensive efforts to commercialize  
 23 repaired EndoWrists. Disclosure of the exact nature, scope, and terms of their  
 24 relationship would provide competitors with a headstart in their own efforts. Thus,  
 25 there are compelling reasons maintaining the confidentiality of that information

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 27 <sup>1</sup> Alliance filed the 510(k) application in the name of Iconocare Health, which was  
 28 acquired from Alliance by Restore.

1 produced by a third party in litigation.

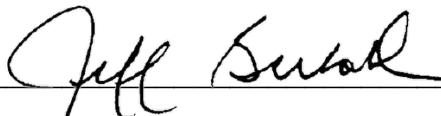
2       4. Consistent with industry practice, Alliance and Restore have always  
3 maintained the details of their business relationship within a closely held group of  
4 individuals on a need-to-know basis within the companies. Alliance and Restore have  
5 invested significant manpower and monetary investment in developing their business  
6 relationship. Disclosure of the terms and conditions of that relationship would give  
7 substantial assistance to potential competitors – allowing them to avoid the time and  
8 cost of assessing the risk, negotiating the terms, and creating a partnership for  
9 developing the technology and requesting the clearance to compete with Alliance and  
10 Restore in repairing or remanufacturing EndoWrists.

11       5. Alliance and Restore request the full sealing of the following email  
12 communication between Alliance and Restore regarding the terms and conditions of  
13 their business relationship:

14       **TX 1741 (AHP000701 – AHP000702) (Dkt. 393-2)**

15       I declare under penalty of perjury under the laws of the United States of  
16 America that the foregoing is true and correct.

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18 Executed: January 5, 2025

  
Jeffrey L. Berhold

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